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NOTIFICATION.

No. L.D. 1377—Legis. 5-52-88, dated Bangalore, the 20th November 1952.

Ordered that Notification No. S.R.O. 1844, dated 29th October 1952 of the Ministry of Rehabilitation, amending the Evacuee Interest (Separation) Rules, 1951, published in the *Gazette of India*, Part II, Section 3, dated the 8th November 1952, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Rajpramukh,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

New Delhi, the 29th October, 1952.

S.R.O. 1844.—In exercise of the powers conferred by section 23 of the Evacuee Interest (Separation) Act, 1951 (LXIV of 1951), the Central Government hereby directs that the following amendment shall be made in the Evacuee Interest (Separation) Rules, 1951, namely :—

In the said Rules,—

1. To sub-rule (1) of rule 7, the following Explanation shall be added, namely:—

"*Explanation.*—An evacuee who shall be represented at the proceeding by the Custodian shall not be deemed to be a respondent to the proceeding."

2. After rule 11, the following rules shall be inserted, namely :—

"11A. *Valuation of composite property.*—(1) The inquiry to be held by a competent officer under sub-section (1) of section 8 of the Act shall, in so far as it relates to valuation of property, be an independent inquiry and the competent officer shall not ordinarily, accept the money value of the composite property or any interest therein agreed upon by the Custodian and the claimant.

(2) For the purpose of holding an inquiry under sub-section (1) of section 8 of the Act, the competent officer may—

(a) take the evidence of any valuer of property or any other person who possesses expert knowledge of valuation of property in the locality ;

(b) personally inspect the composite property.

(3) In every order made under section 8 of the Act, the competent officer shall state his reasons therefor and shall, as far as practicable, clearly set out the documentary and other evidence on which he relies for the purpose of valuation of the composite property or any interest therein.

11B. *Mode of separation of interests of evacuees.*—A competent officer, having regard to the provisions of the proviso to section 10 of the Act, shall, for the purpose of separating the evacuee interest from other interests in a composite property, adopt any of the following measures in the order of preference set out below:—

(a) in the case of any claim of a co-sharer or a partner—

(i) partition the property as provided in sub-clause (iv) of clause (a) of section 10 of the Act if such partition can reasonably and conveniently be made;

(ii) where such partition cannot reasonably and conveniently be made and if both the Custodian and the claimant agree, exercise the power conferred upon him under sub-clause (i) or sub-clause (ii) of clause (a) of section 10 of the Act;

(iii) where neither clause (i) nor clause (ii) applies, sell the property and distribute the sale proceeds in the manner provided in sub-clause (iii) of clause (a) of section 10 of the Act.

(b) in the case of any claim of a mortgagor or a mortgagee—

(i) where both the Custodian and the claimant agree, exercise the powers conferred upon him under sub-clause (i) or sub-clause (iii) of clause (b) of section 10 of the Act;

(ii) where there is no such agreement sell the mortgaged property for satisfaction of the mortgage debt and distribute the sale proceeds thereof.

11C. *Deposit of purchase money.*—Where with the consent of the Custodian a claimant purchases the evacuee interest in a composite property, the claimant shall deposit the purchase money within 15 days or such longer period as the competent officer deems fit and the competent officer shall not make an order under sub-clause (ii) of clause (a) of section 10 of the Act unless the purchase money has been deposited within the said period.

11D. *Sale of composite property.*—Where a competent officer proposes to sell the entire composite property the following procedure shall be adopted:—

(*a*) the composite property shall be put to public auction through an officer appointed for the purpose by the State Government or through an auctioneer approved by the State Government;

(*b*) every such sale shall be subject to a reserve price the amount of which shall be fixed by the competent officer which shall not be less than 90 per cent of the value determined by him;

(*c*) where the highest bid received exceeds the reserve price, such highest bid shall, unless the competent officer otherwise directs, be accepted;

(*d*) where the highest bid received falls short of the reserve price, such bid shall not be accepted and steps shall be taken to re-auction the property and the provisions hereinbefore contained relating to a public auction of a composite property shall apply to the re-auction of the property accordingly.

Provided that at such second auction the competent officer shall himself be present if in his opinion the value of the property is substantial or if he otherwise deems it necessary, and the highest bid received at such auction shall be accepted notwithstanding that such bid is less than the reserve price.

11E. *Sale Certificate.*—(1) Where any composite property or interest therein is sold in pursuance of the foregoing provisions of these rules, the competent officer shall grant to the purchaser a sale certificate in Form 'I'.

(2) A certified copy of the sale certificate shall be sent by the competent officer to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate.

11F. *Form and Presentation of Appeal.*—(1) A memorandum of appeal made under section 14 of the Act shall be accompanied by a copy of the Order appealed from and shall set forth concisely and under distinct heads the grounds of objection, to such order without any argument or narrative.

(2) Every such memorandum of appeal shall be presented either personally or by an authorised agent to the appellate officer having jurisdiction or may be sent to him by registered post acknowledgment due.

(3) There shall be filed along with the memorandum of appeal or with the permission of the appellate officer at a later stage as many copies of the memorandum of appeal and as many envelopes and notices in Form 'J' duly addressed to the respondents, as there are respondents.

11G. *Register of Appeal.*—Where a memorandum of appeal is presented to, or received by an appellate officer, he shall endorse thereon the date of presentation or receipt and shall register it in a register to be kept for the purpose in Form 'K'.

11H. *Record of proceedings.*—For the purpose of hearing any appeal, the appellate officer may send for the record of the case if he so thinks fit."

3. After rule 15, the following rule shall be inserted, namely :—

"16. *Quarterly returns by appellate officers.*—Every appellate officer shall, at the end of each quarter submit a statement if Form 'L' to the State Government."

4. After Form 'H', the following forms shall be inserted, namely :—

FORM 'I'

Certificate of Sale.

(*See* rule 11E.)

This is to certify that has been declared the purchaser at a sale by public auction on the day of 19 of held in pursuance of the powers conferred upon me under section 10 of the Evacuee Interest (Separation) Act, 1951 (LXIV of 1951) and the rules made thereunder.

Given under my hand and the seal of my office, this day of 19 .

(Signature)
(Competent Officer).

FORM 'J' 696

Notice of appeal.

[*See* rule 11F (3)]

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

(Title)

APPEAL FROM THE DECISION OF.....DATED THE.....DAY OF.....19 .

To -

Respondent.

TAKE notice that an appeal from the decision of has been presented by and registered in this office, and that the day of 19 has been fixed by me for the hearing of this appeal.

If no appearance is made by you either personally or thro ugh an authorised agent on the aforesaid date, the appeal will be heard and de cided in your absence.

Given under my hand and the seal of my office this day of 19 .

(Signature)
(Appellate Officer)

FORM 'K'

Register of Appeals.

(*See* Rule 11G)

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Serial No.	Date of presentation of appeal	Name & description of appellant	Name & description of respondents	Value of composite property as ascertained by competent officer	Value of appellant's share determined by competent officer	Total value of evacuee interest in the property as determined by competent officer	Total value of non-evacuee interest in the composite property as determined by competent officer	Manner in which evacuee and non-evacuee interest have been separated	Date of final order of competent officer	Number of hearings and period spent in disposal of appeals	Purport & date of the order of appellate officer	Date of despatch in record to record keeper with the date of consignment in the record room	Number in record keeper's register	Remarks

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FORM 'L'

Quarterly Statement showing the business before the Appellate Officer.....for the quarter ending.....

(*See* rule 16)

1			2				3		5	6
Number of appeals before the Appellate Officer			Number of appeals disposed of							
(a)	(b)	(c)	(a)	(b)	(c)	(d)				
Pending at the beginning of the quarter	Instituted during the quarter	Total	Appeals dismissed	Appeals rejected	Appeals decided	Total number of appeals disposed of	Number of appeals pending at the close of the quarter	Number of appeals pending for more than six months	Number of appeals pending for more than one year	Remarks

[No. 32 (13)/51-Prop.]

MANMOHAN KISHAN, Asst. Secy.

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